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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/962,776	11/03/1997	ROMAN SCHERTLER	622/40901 CO	9277

7590 05/26/2004  
CROWELL & MORING LLP  
INTELLECTUAL PROPERTY GROUP  
P.O. BOX 14300  
WASHINGTON, DC 20044-4300

EXAMINER	
JIMENEZ, MARC QUEMUEL	
ART UNIT	PAPER NUMBER
3726	40

DATE MAILED: 05/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## DETAILED ACTION

### *Reissue Applications*

1. The reply filed on 12/4/03, paper #39 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s):

The response filed 12/4/03 is not a proper 3.73(b) certificate as requested by the Quayle action. There is no indication that the assignee is in fact the assignee, for example, the reel and frame number of an assignment or attached assignment papers. All that was filed was a statement that the person signing the paper has authority to bind the purported assignee. See MPEP 324, page 300-21, for an example of a proper 37 CFR 3.73(b) certificate. Applicant must resubmit a proper 3.73(b) certificate.

The detailed requirements of the Quayle action are repeated below:

**Applicant is required to file a proper 3.73(b) certificate in accordance with MPEP 324. The certificate filed on 7/9/02, paper no. 30, is not signed by someone having authority to bind the assignee.**

**The person who signed the submission establishing ownership interest has failed to state his/her capacity to sign for the corporation or other business entity, and he/she has not been established as being authorized to act on behalf of the assignee. See MPEP § 324.**

The person who signed the submission establishing ownership interest is not recognized as an officer of the assignee, and he/she has not been established as being authorized to act on behalf of the assignee. See MPEP § 324.

Therefore, this application is objected to under 37 CFR 1.172(a) as the assignee has not established its ownership interest in the patent for which reissue is being requested. **An assignee must establish its ownership interest in order to support the consent to a reissue application required by 37 CFR 1.172(a). The assignee's ownership interest is established by:**

**(a) filing in the reissue application evidence of a chain of title from the original owner to the assignee, or**

**(b) specifying in the record of the reissue application where such evidence is recorded in the Office (e.g., reel and frame number, etc.).**

**The submission with respect to (a) and (b) to establish ownership must be signed by a party authorized to act on behalf of the assignee. See MPEP § 1410.01.**

An appropriate paper satisfying the requirements of 37 CFR 3.73 must be submitted in reply to this Office action.

It would be acceptable for a person, other than a recognized officer, to execute a submission establishing ownership interest, provided the record for the application includes a statement that the person is empowered to sign a submission establishing ownership interest and/or act on behalf of the assignee.

Accordingly, a new submission establishing ownership interest which includes such a statement above, will be considered to be executed by an appropriate official of the assignee. A separately filed paper referencing the previously filed submission establishing ownership interest and containing a proper empowerment statement would also be acceptable.

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See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

***Contact Information***

2. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information. M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers or other general questions should be directed to Tech Center 3700 Customer Service at (703) 306-5648, or fax (703) 872-9301 or by email to [CustomerService3700@uspto.gov](mailto:CustomerService3700@uspto.gov).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Jimenez whose telephone number is **703-306-5965**.

The examiner can normally be reached on **Monday-Friday, between 5:30 am- 2:00 pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 703-308-1789. The fax phone number for the

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organization where this application or proceeding is assigned is 703-872-9306 for regular communications and After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Other helpful telephone numbers are listed for applicant's benefit.

Allowed Files & Publication	(703) 308-6789 or (888) 786-0101
Assignment Branch	(703) 308-9723
Certificates of Correction	(703) 305-8309
Drawing Corrections/Draftsman	(703) 305-8404/8335
Petitions/Special Programs	(703) 305-9285
Terminal Disclaimers	(703) 305-8408
PCT Help Desk	(703) 305-3257

If the information desired is not provided above, or a number has been changed, please call the general information help line below.

Information Help line	1-800-786-9199
Internet PTO-Home Page	<a href="http://www.uspto.gov/">http://www.uspto.gov/</a>

  
MJ

April 28, 2004

  
**PETER VO**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3700**